

REMARKS

Claims 12-23, 25-50, 52, 53, 55, 56, 58, 59, and 61-69 have been variously rejected under 35 U.S.C. § 112, first and second paragraphs, 35 U.S.C. § 102, and 35 U.S.C. § 103. Solely in an effort to advance prosecution, claims 12-23, 25-50, 52, 53, 55, 56, 58, 59, 61-73, and 75-78 have been canceled herein without prejudice or disclaimer.

Claims 74 and 79 have been rewritten in independent form. The Examiner has indicated that these claims, as currently written, are allowable (see Office Action, page 55).

New claims 80-87 have been added, which include the recitations of now canceled claims 13-15 and 26.

Cancellation and amendment of the claims is made without prejudice, without intent to abandon any originally claimed subject matter, and without intent to acquiesce in any rejection of record. Applicants expressly reserve the right to file one or more continuing applications hereof containing the canceled or unamended claims.

35 U.S.C. § 132(a)

The Examiner has objected to the amendment filed September 1, 2006 and the new sequence listing filed February 15, 2007 for allegedly introducing new matter into the disclosure. Although Applicants believe no new matter was added to the disclosure by these amendments for the reasons already made of record, Applicants have removed the amendments to the specification in order to expedite prosecution.

35 U.S.C. § 112, second paragraph

Claims 74-79 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being “indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” (Office Action, page 8). The Office Action alleges that claims 74-79 are indefinite because of the recitation of the trademark Herceptin®. Claims 75-78 have been canceled; therefore, the rejection with respect to these claims is moot. Applicants have amended claims 74 and 79 to recite the recombinant, humanized anti-HER2 antibody Trastuzumab, as suggested by the Examiner. Therefore, withdrawal of the rejection under 35 U.S.C. § 112, second paragraph is respectfully requested.

35 U.S.C. § 112, first paragraph, New Matter

Claims 12-23, 25-50, 52, 53, 55, 56, 58, 59, and 61-79 have been rejected under 35 U.S.C. § 112, first paragraph as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention (Office Action, page 9). Claims 12-23, 25-50, 52, 53, 55, 56, 58, 59, and 61-73 and 75-78 have been canceled; therefore, the rejection with respect to these claims is moot.

For reasons already made of record, Applicants believe no new matter was added to the disclosure by the recitation of the IL-2 sequence of SEQ ID NO:1, which was known at the time of filing of the instant application; nevertheless, Applicants have removed the term SEQ ID NO:1 from the claims in order to expedite prosecution. Therefore, withdrawal of the new matter rejection under 35 U.S.C. § 112, first paragraph is respectfully requested.

CONCLUSION

In light of the above remarks, Applicants submit that the present application is fully in condition for allowance. Early notice to that effect is earnestly solicited.

If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact the undersigned.


The Commissioner is hereby authorized to charge any fees and credit any overpayment of fees which may be required under 37 C.F.R. §1.16, §1.17, or §1.21, to Deposit Account No. 18-1648.

Please direct all further written communications regarding this application to:

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Respectfully submitted,

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